

Original scientific paper

Received: 31 July 2016 / Accepted: 30 November 2016

UDK: 321.01 341.1 / DOI: 10.11643/issn.2217-995X162SPM71

Challenging Institutions: Getting Goods or Getting Your Own Institution?

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Abstract: I present a discussion of the current state of liberal internationalism as it relates to international organisations. I maintain that the literature focuses too much on liberal internationalism instead of non-liberal internationalism. This is problematic because non-liberal states are increasingly becoming important players in the international system, as is the case with Russia and China. I argue that non-liberal states have a variety of approaches in their dealings with international institutions that can enable them to maximise their net gains from institutions. These are: 1) keep using the liberal institution, 2) utilise institutional à la cartism (forum shopping), 3) create an anti-liberal institution, or 4) opt out of institutions altogether. Scholars and practitioners alike should acknowledge that international institutions can be a vehicle whereby non-liberal states maximise their power and diminish the power and influence of liberal states.

Keywords: institutions, liberalism, non-liberal states, forum shopping

The Problem

Liberal internationalists are often quick to examine how international institutions are beneficial to the Western liberal project as a whole (never mind that viewing this on the whole is problematic, given that individual state decisions to cooperate and extract goods is what underpins liberal internationalism). What they take into account less often are those institutions that are constructed (or may be reconstructed) that stand in opposition to the broader liberal project. How can “outsider” states or other international institutions challenge liberal international institutions? There are multiple ways in which states can manipulate institutions to maximise their own goals from the inside of liberal or illiberal institutions. To the extent that ends cannot be satisfactorily maximised (or even that international institutions are ineffective in an issue area or within a region), states can pursue a different, albeit costly, alternative: the formation of new, counter-institutions. In this paper I will look at basic rational choice theory that describes how states interact with institutions to maximise gains, as well as focus on counter-institutional formation that might not completely agree with liberal institutions formed along Western lines. I will then examine literature that may provide a framework to empirically validate the

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decisions of states to manipulate or outright defect from liberal institutions or the voting habits of other states, while pointing out the weak spots that each of these bring to such an analysis. The literature surrounding these topics is rich in variation, though there has been, unfortunately, a neglect to directly address institutions that are constructed to challenge liberal institutions.

Using Institutions

I begin with a discussion of why states would choose to utilise international institutions to achieve their ends. According to Abbott and Snidal, states use formal international organisations in order to “(take) advantage of the centralization and independence of IOs... (and) are able to achieve goals that they cannot accomplish on a decentralized basis.”¹In other words, states are still concerned with maximising their goals (a rationalist/realist perspective), albeit through an institutional framework (a neorealist understanding of institutions). Plainly put “IOs allow for the centralization of collective activities through a concrete and stable organizational structure and a supportive administrative apparatus.”²

From a rational choice perspective, international institutions are useful for several reasons. Above all, cooperation is assumed to reveal information, which diminishes uncertainty. Likewise, they increase the probability of credible commitments,³ as well as transaction costs.⁴ Furthermore, international institutions are designed differently from one another, given their different goals and membership limitations.⁵One of the central ideas behind a liberal internationalist approach is that rooted in the functionalist/neofunctionalist foundations of cooperation and spill-over, whereby low-level cooperation leads to more cooperation and more mutual benefit to all parties.⁶ In other words, both sides mutually benefit from cooperative behaviour.

But perhaps the greatest way in which institutions facilitate the achievement of state ends is in the pooling of activities, assets, or risks.⁷ However, the primary problems with a large, powerful state pursuing an institutionalist approach are the issues of free-riding, the collective action problem, and the inclusion of states that might have conflicting goals. All of these serve to undermine the benefits a state should hope to extract from an institution. They can often act as a counter-weight to narrow, state-centric goals. In order to continue to maximise gains, there are several ways in which states can hope to recover the losses incurred by institutional competition. It is to that topic which I now turn.

1 Abbott and Snidal 1998, 29.

2 *Ibid.*, 4.

3 Leeds 2000.

4 Keohane 1989.

5 Koremenos, Lipson, and Snidal 2001.

6 Mitrany 1933.

7 Abbott and Snidal 1998, 13.

Aggarwal⁸ concentrates on multiple institutions that may overlap or share commonality in some other fashion (rather than what I have been examining, namely institutional competition). In this analysis, he claims that “faced with undesirable payoffs, some actors may attempt to modify the bargaining game in which they find themselves.”⁹ This will look very different for different states with different goals. Aggarwal suggests there are three reasons why institutional bargaining can vary amongst actors. First, the type of “goods” may be different in different issue areas; second, the “individual situation” of actor states varies from state to state (domestic coalitions, history, identity, relative power, etc.); or third, the presence or absence of institutions in which to bargain in the first place.¹⁰ Of course, the most extreme alternative is to back away from institutions altogether rather than trying to manipulate the agenda or goals of the institutions or the payoff structure itself (see below). In order to deal with the problem of insufficient payoffs that a state receives from an institution, Aggarwal identifies three alternatives: 1) create new institutions that are nested; 2) create parallel linkages; 3) initiate bargaining amongst institutional players (the “buyoff”).¹¹

In creating nested intuitions, an international organisation is divided up into institutional areas amongst sub-institutions (as in Russian stacking dolls, each “doll” inside is smaller and has a narrower agenda or issue area). In the second alternative, parallel linkages are created, which effectively acts as a method to divide labour amongst institutions. And in the final alternative, states bargain with other “players” to maximise their goals and may even increase the payouts in hopes of gaining more. Essentially in the first two, the state is “changing the rules of the game” after the “game” has begun or changing of the payoff structure.¹² The third step, though, is a goal of states from the outset of the institution being constructed, though in this context the “stakes” have been raised and actors are more willing to payout in order to achieve their ends. He acknowledges that strategic interaction happens in regime formation¹³ but maintains that it does not end there. It continues within the institution or in parallel, nested, or non-liberal institutions. Aggarwal¹⁴ then attempts to give examples of these ways in which to maximise gains, but he only looks towards examples from European institutions (which is a major problem for liberal institutionalists—they are quick to reference particular institutions in a particularly narrow region).

8 Aggarwal 1998, 1–31.

9 *Ibid.*, 2.

10 *Ibid.*

11 *Ibid.*, 1.

12 Aggarwal 1998, 13.

13 *Ibid.*

14 Aggarwal 1998, 1–31.

Whereas nesting institutions are like Russian dolls,¹⁵ overlapping institutions are where multiple institutions “do not per se mean that one (institutional) rule is in violation of another.”¹⁶ The problem with overlapping or nested institutions, they are quick to point out, is that disputes can arise that can ultimately give birth to incohesiveness or indecisive action by the institution. This can ultimately lead to a splintering or the development of new institutions (though they may not necessarily be anti-liberal institutions).

In their analysis of the trade dispute between the EU, the US, and banana-producing countries, Alter and Meunier find that a trade dispute was specifically triggered by overlapping and nesting institutions.¹⁷ This was problematic because it crossed over several other liberal institutions and no one organisation could give a decisive answer. This occurred because, when multiple institutions exist (in this case, GATT/WTO and EU), states can forum shop for the “best deal” that maximises their outcomes. But this begs the question: if it is possible for states to forum shop across liberal institutions, can states choose to forum shop between liberal institutions and non-liberal institutions (or create new institutions altogether)? What would the interaction between these institutions then look like?

On the topic of forum shopping, Busch also looks towards international trade.¹⁸ He asserts that states that forum shop do so not for mere short-term goals, but also in other strategic, long-term matters, such as precedent setting. He claims that a state could be trying to set a regional or international precedent, or none at all, depending on its strategy, goals, and perception of future utility of the precedents.¹⁹ The point that he makes is that there is a “double-edged sword” in precedent setting, just as there likewise would be in reshaping an institution or creating a new one altogether.²⁰

The possibility of forum shopping has emerged only as a recent phenomenon, with the institutional proliferation in the wake of the Second World War. Alter and Meunier look at this proliferation and note that “international regime complexity refers to the presence of nested, partially overlapping, and parallel international regimes that are not hierarchically ordered.”²¹ In other words, organisations might overlap or share tasks, but it is not necessarily intended that they compete with one another, though they can, either by design, evolution, or “just because.” Institutional design and manipulation by states are what have “carved out” a space for the forum shopping. They then show that complex interactions between organisations, individuals, and institutions can take an institution to a path that

15 Alter and Meunier 2006, 362–382.

16 Aggarwal 1998, 4.

17 Alter and Meunier 2006, 362–382.

18 Busch 2007, 735–761.

19 *Ibid.*, 736.

20 See, for instance, Jupille and Snidal 2005.

21 Alter and Meunier 2006, 13.

might not have necessarily been intended.²² Here institutions are “manipulated” to serve an end that they might not otherwise have intended. Betts, who examines the international human rights regime within the framework of liberal institutionalism,²³ is in agreement with Alter and Meunier that states can “shop around” for the best deal,²⁴ though that does not necessarily mean that they will oppose liberal institutions. Just that they will look towards other institutions that may offer more preferable outcomes.

Dealing with Institutions

Aside from forum shopping, there are a variety of ways in which states can maximise their outcomes, with respect to institutions. Jupille and Snidal²⁵ maintain, like Alter and Meunier,²⁶ that it is possible to circumvent existing institutions in issues of international cooperation, even outright manipulate the process. In fact, “there exists a large range of institutional alternatives to states.”²⁷ They characterise these alternatives as: 1) using the institution; 2) changing the institution; 3) selecting the institution; or 4) creating institutions.²⁸ In this sense, then, they take a more holistic approach to institutions which looks at how they can be reshaped, manipulated, or even have a new institution emerge specifically because of the inability of another institution to maximise the gains a state wants.²⁹

In their Figure 2 (15), they outline these four alternatives, showing how each one becomes costlier for the state pursuing its ends through institutional constraints. Using the institution, naturally, is easier than changing the institution. And changing the institution is easier than creating a new one altogether. Thus, as Jupille and Snidal point out, if the institution works to facilitate your ends, use it.³⁰ But if it does not, seek an alternative.³¹

This four-point conceptualisation of institutional maximisation is useful, though my own framework is somewhat different for “outsider” states to the liberal project. For those states that may not support the larger ideas of liberal internationalism or exist at the margins, there are four alternatives: 1) keep using the liberal institution, 2) utilise institutional à la cartism (forum shopping), 3) create an anti-liberal institution, or 4) opt-out of institutions altogether. Similar to the framework Jupille and Snidal³² provide, risks and costs

22 *Ibid.*, 15.

23 Betts 2013, 69–81.

24 Alter and Meunier 2006, 362–382.

25 Jupille and Snidal 2005.

26 Alter and Meunier 2006, 362–382.

27 Jupille and Snidal 2005, 6.

28 *Ibid.*

29 See, for instance, Abbott and Snidal 1998, 3–32

30 *Ibid.*, 22.

31 *Ibid.*

32 Abbott and Snidal 1998, 22.

increase from 1 to 4 for those states that exist at the margins of international liberalism. It is easier to “shop around” (option 2) than it is to build your own store (option 3) or forsake shopping altogether (option 4). I maintain that this framework is acceptable for “fringe” states that are dissimilar and have differences in powers and goals, want different institutions, or expect different institutional arrangements.³³ It is to that which I now turn my attention. By “shopping around” or creating one’s own institutions, non-liberal states are not violating the rationalist premise underpinning liberal internationalism or even “changing the rules of the game”. Instead, in the mindset of non-liberal states, the cooperation and information value gained in international institutions is seen as a subset of a larger game whose assumptions cannot be violated but can be side-stepped.

Challenging Liberal Institutions

The notion that international institutions can be quite varied and serve different roles for different states in different regions should be nothing new (for instance, see Koremenos, Lipston, and Snidal, 2001). Just because regional powers or states exercise politics through supra-national institutions does not necessarily mean that they will “look” like Western attempts to create liberal institutions. That, clearly, assumes that Western states wish to support the liberal international agenda simply because of the theoretical “good” it may bring to the world.³⁴ Instead, I agree with Keohane and Nye that complex interdependence means that due to the realities of modern interdependence, states will work through international institutions to maximise their outcomes.³⁵ However, this comes with the larger understanding that states are playing a more complex game in which defecting from one institution (either to another institution or some other means to an end) does not mean that the institution has failed. Instead, the defecting state is acting in a larger (perhaps immediate and not long-term) rational framework to achieve an end. Though this certainly affects reputation, particularly in the context of a single institution, this reputation can be rehabilitated in the context of other institutions.

Perhaps one of the most eye-opening examples of this is the case of Russia and the Commonwealth of Independent States it constructed in the aftermath of the collapse of the Soviet Union. According to Bugajski, Russia is engaged in what he calls a “pragmatic re-imperialisation” that is “contrary to Western interests” and “the same foreign policy principles do not apply.”³⁶ In fact, one only needs to look as far as Crimea or the Russian campaign in Syria. What is particularly interesting about Bugajski’s³⁷ take on this “reforming of the empire” is that he claims it is pragmatic. Gone are the days of blatant imperialism and outright, unjustified aggression. Instead, he argues that imperialism must appear to

33 *Ibid.*, 20.

34 Keohane 1988, 380.

35 Keohane and Nye 1977.

36 Bugajski 2010, 3.

37 *Ibid.*

occur within the liberal framework in order to have the appearance of legitimacy. Thus the justification for the “protection” of ethnic minorities in Crimea and elsewhere that is euphemistically called “peacekeeping” in Russia.

To Bugajski, “the Russian administration aims to discredit Western institutional enlargement, postures as the defender of the international legal order, seeks to neutralise democracy by promoting institutions such as the Organisation for Security and Cooperation in Europe, pursues dependency relations with neighbouring governments, manufactures security disputes with NATO to gain advantages in other areas, and promotes its diplomatic indispensability in resolving conflicts that it has contributed to creating.”³⁸ Bugajski goes so far as to claim that Russia’s attempts at reimperialisation utilise “stealth tactics” and makes the critical point that Russia’s pragmatic approach is not the end, but the means to reimperialising states that were once a part of Russia.³⁹ This is important because it furthers his claim that Russia (or other states, for that matter), could use institutions that are dominated by a powerful state as a cover for its own narrow goals. And one of the vehicles that may prove indispensable to Russia in accomplishing these goals and opposing Western liberalism is the CIS.

In fact, according to Grant, Russia is not a proponent of multilateral international organisations at all.⁴⁰ Instead, he argues, it prefers to focus on regional organisations such as the CIS and Shanghai Cooperation Organization (see my options two and three above) precisely because it can exercise a good bit more power without having to give up sovereignty to other states. This essentially allows it to operate in a different “world” than do other states. Whereas the liberal framework of cooperation may work quite well in Europe (particularly Western and Central) and North/South America, it does not explain reality as well in Central Asia. This is particularly where a regional analysis of international politics is at its best. While not wanting to devolve into general discussion about realism versus liberalism versus constructivism, Grant and Bugajski’s arguments imply that different regions may have different conceptual schemes, different histories, different interests, and different goals. While a realist framework might get one further in studying Central Asia and Russia, it does not carry one as far in other regions that are organised along different conceptual schemes.

While it is easy to concentrate on Russia as being the quintessentially “anti-liberal state,” this phenomenon can be viewed elsewhere, albeit in a more muted form. Though it is possible that different states can be hostile to the liberal international project, as the above authors argue, it is also possible that states have divergent policy interests, which can be seen empirically with UN voting records. Volgy, Frazier, and Stewart-Ingersoll⁴¹ look at G-7 voting cohesion to assess foreign policy voting cohesion within the UN General

38 *Ibid.*, 4.

39 *Ibid.*, 9.

40 Grant 2009.

41 Volgy, Frazier, and Stewart-Ingersoll 2003, 51–70.

Assembly votes. In this article, they correctly note that the combined power of all the G-7 states is unparalleled both by the British in the 19th century and the US in the 20th, though they are quick to point out that “strength... does not equate to actual leadership.”⁴²

Thus they propose an analysis of the in-group cohesion of G-7 states and then compare this to a series of times representing the “high” Cold War, wrap-up of Cold War, immediate post-Cold War, and early War on Terror timeframes, as well as the voting cohesion of non-G-7 states. They also give three reasons why voting divergence may be explained outside of absolute defection from group norms: 1) it indicates a divergence in policy between G-7 members outside the UN; 2) it signals to members and non-members it will reposition itself; and 3) strong states may deviate because they can modify their interests to signal other interests.⁴³ These three explanations show that these states can remain liberal in the sense of their underlying identity, though their preferences do not have to be identical. Although the authors do find some inconsistencies at particular times, they find that loyalty was high during most of Cold War and that defection was less than it was in the General Assembly as a whole.⁴⁴ Additionally, defection rate is also low in the immediate post-Cold War analysis.⁴⁵

Taking this framework to the next logical step, Peter Ferdinand looks at foreign policy convergence amongst the Southeast Asia complex and their UN General Assembly voting.⁴⁶ He introduces the idea that regional security complexes and regional organisations can be a useful comparative point with reference to UN voting patterns. The value added in this study is that he examines three different methods of measuring votes with the UN: the Agreement Index, the Cohesion Index, and the Index of Voting Cohesion Index.⁴⁷ This is beneficial in that it elucidates that there are multiple ways to test the same data, though in this case the results are similar.⁴⁸ He also finds that at times, some Asian liberal states voted more in-line with states like China and North Korea than they did with the US, indicating regional and policy fissures with liberal states.

As previously stated, even though states might be divergent on policy matters that is not to say that they are completely opposed to liberal institutionalism. The analysis of UN voting records is only a small part of determining to what extent there is policy cohesion between disparate states, as Volgy, Frazier, and Stewart-Ingersoll,⁴⁹ as well as Ferdinand⁵⁰

42 *Ibid.*, 51-52.

43 Volgy, Frazier, and Stewart-Ingersoll 2003, 54.

44 *Ibid.*, 57; also, 63.

45 *Ibid.*, 57.

46 Ferdinand 2013, 10.

47 *Ibid.*, 4-5.

48 *Ibid.*, see tables on pg. 6.

49 Volgy, Frazier, and Stewart-Ingersoll 2003, 51–70.

50 Ferdinand 2013, 3.

are quick to point out. It would be useful to construct an index to measure how often perceived illiberal states oppose liberal states as a whole and individually. But this analysis does provide us with a very real possibility for empirically validating assertions that states may have different policy objectives than liberal-leaning states and institutions. A word of caution, of course, must be added here: naturally, not all liberal states vote along the same lines or for the same policies. Just as there are many ways in which states can have opposing interests, so too can they also have different votes, while still being liberal states. Their policies are merely divergent. For other states, they may be in opposition to liberal states, either generally or certain states in particular. It is thus quite difficult to measure what constitutes a non-liberal state or their attempts to construct counter-international institutions. This is the primary problem with the institutional literature: many studies are too narrow to simply conclude one way or another how or if states challenge liberal internationalism.

Conclusion

What is needed is an approach that is more comprehensive and encompasses the entire list of concerns in answering the important questions. How do states challenge liberal institutions? Can states create competing, non-liberal institutions? Also, how does the creation of these institutions not violate the rationalist foundations of cooperation? First, I propose that there should be a comprehensive analysis that empirically measures forum shopping by states. As demonstrated by Alter and Meunier⁵¹ and Busch,⁵² this could most likely best be seen in trade disputes, where real-substantive issues must be ruled upon by both regional and international organisations. It might also be interesting to examine to what extent states “shop” for different forums on environmental issues. This approach will help answer two questions for us: to what extent does institutional proliferation harm the liberal project and does it encourage states to marginally prefer institutions that “give the better deal”?

Another approach that must be included is, as mentioned above, an index of votes of illiberal states compared to liberal states as a whole and individually. This would allow the reader to sort through votes that may show states are divergent on issues based on narrow goals, rather than the larger goal of inter-state competition.

Additionally, in a mixed methods approach, it would be wise to look at historical institutional lineage: how are they formed, why are they formed, and in response to what problem? Also, how are they transformed over time? This historical analysis is vital as to why certain institutions form. Without the collapse of the Soviet Union, there would be no CIS or Shanghai Cooperation Organisation. And, most likely, without the UN, there

51 Alter and Meunier 2006, 362–382.

52 Busch 2007, 735–761.

would not be the abundance of international or regional organisations that exist in the world today.

In this discussion, I have demonstrated that rational choice theory, UN voting records, and regional analysis are not “enough” to get us to conclusive evidence that non-liberal international institutions may be possible. Instead, a holistic, mixed-method approach is the best way in which to look at how illiberal states might challenge liberal international institutions and modify the bargaining process. It is possible to examine the issue further and create a body of literature that is not opposed to liberal institutionalism. This body of literature should act more like a footnote to warn that liberal institutions may permeate the world and most regions, but they can still be threatened by states that might have other, more personal goals, in mind.

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